REMARKS

In response to the Restriction Requirement in the Office Action, Applicant elects, with traverse, the invention of Group I, claims 1-3, directed to an inhibitor that does not inhibit a catalytic activity of a wild-type enzyme but inhibits the same catalytic activity of the corresponding mutant enzyme, wherein the wild-type enzyme and the mutant enzyme are functionally identical.

Applicant respectfully traverse the restriction requirement, specifically, the restriction of the claims of inventions I and IV. The Examiner has not properly set forth the requirements for the election of "patentably distinct" inhibitors between inventions I and IV. Inventions I and IV are directed to inhibitors that do not inhibit a catalytic activity of a wild-type enzyme but inhibit the same catalytic activity of the corresponding mutant enzyme, wherein the wild-type enzyme and the mutant enzyme are functionally identical. A protein kinase is an enzyme. Accordingly, a protein kinase inhibitor of Group IV is also an inhibitor of Group I. Thus, the claims of invention IV, claims 74-76, should be grouped with the invention of Group I containing claims 1-3.

In the event that Applicant's traversal is deemed non-persuasive, Applicant respectfully point out that the claims of Group I are at least linked to the claims of Group IV. MPEP 809.03 states that examples of linking claims include genus claims linking species claims.

Moreover, linking claims, if found allowable, act to prevent restriction between inventions that can otherwise be shown to be divisible (see MPEP 809.03). Applicant respectfully submits that once a linking claim is found to be allowable, the restriction requirement as to the linked invention must be withdrawn and any claims depending from or otherwise include all the limitations of the allowable linking claim must be examined (see MPEP 809.03).

The Office Action asserts that the claims of invention I are unclassifiable due to lack of disclosure of such agents and lack of specificity to compounds or enzyme. Applicant respectfully points out that examples of inhibitors that do not inhibit a catalytic activity of a wild-type enzyme but inhibit the same catalytic activity of the corresponding mutant enzyme are found throughout the specification. Examples of such inhibitors

include those having formula I, preferably compounds 6a-6j (see pages 7-9 and 88-94). The specification provides guidance for making the inhibitors and assays for testing the inhibitory activity of the inhibitors described by the specification. For example, on pages 89-92, the specification provides the method steps for making compounds 6a-6j. On page 89, the specification provides screening assays such as kinase inhibition assay. On page 92, the specification provides the results of the assay screening the inhibitory activity of compounds 6a-6j. The results show that compounds 6a and 6b are the most potent inhibitors that do not inhibit the catalytic activity of a wild-type enzyme but inhibits the activity of a corresponding mutant enzyme. Thus, the specification provides examples of inhibitors described by claims 1-3.

If there are any additional fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-0310. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

MORGAN, LEWIS & BOCKIUS LLP

Sally P. Teng
Reg. No. 45,397

Dated: December 31, 2003

MORGAN, LEWIS & BOCKIUS LLP
Customer No. 09629
1111 Pennsylvania Avenue, NW
Washington, D.C. 20004
(202) 739-3000